

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Malcolm Gray,  
 Plaintiff

Case No.: 2:18-cv-1618-JAD-EJY

v.

**Order Dismissing Case**

Dave Dzurunda, et al.,  
 Defendants

On November 13, 2020, the court entered a notice of its intent to dismiss this case for want of prosecution under Local Rule 41-1 if nothing more happened in this case before December 13, 2020.<sup>1</sup> The last activity by the plaintiff in this case occurred in September 2019, it appears that the plaintiff in this prisoner-civil-rights case was paroled in November 2019,<sup>2</sup> and court mail sent to the plaintiff has been returned to sender for more than a year.<sup>3</sup>

District courts have inherent power to control their dockets and “in the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>4</sup> A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.<sup>5</sup> In resolving whether to dismiss an action on

<sup>1</sup> ECF No. 26.

<sup>2</sup> <https://ofdsearch.doc.nv.gov/> (last visited 2/10/2021).

<sup>3</sup> ECF Nos. 25, 27.

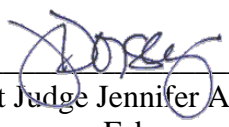
<sup>4</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

<sup>5</sup> See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 one of these grounds, district courts must consider: (1) the public’s interest in expeditious  
 2 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the  
 3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
 4 availability of less drastic alternatives.<sup>6</sup>

5 The first two factors, the public’s interest in expeditiously resolving this litigation and the  
 6 court’s interest in managing its docket, weigh in favor of dismissal. The third factor, risk of  
 7 prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises  
 8 from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
 9 prosecuting an action.<sup>7</sup> A court’s warning to a party that its failure to obey the court’s order will  
 10 result in dismissal satisfies the fifth factor’s “consideration of alternatives” requirement, and that  
 11 warning was given here.<sup>8</sup> The fourth factor—the public policy favoring disposition of cases on  
 12 their merits—is greatly outweighed by the factors favoring dismissal.

13 IT IS THEREFORE ORDERED that this case is **DISMISSED without prejudice** for  
 14 want of prosecution. The Clerk of Court is directed to ENTER JUDGMENT accordingly and  
 15 **CLOSE THIS CASE.**

16   
 17 U.S. District Judge Jennifer A. Dorsey  
 18 February 10, 2021  
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 20  
 21

22 <sup>6</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
*Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

23 <sup>7</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

<sup>8</sup> ECF No. 26.